



Proposed Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30-80-75
Regulation title	Methods and Standards for Establishing Payment Rates: Other Types of Providers.
Action title	School Division Reimbursement.
Document preparation date	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This proposed regulation will change reimbursement for school divisions from state-wide fee-for-service to a cost settlement process. School division providers shall file annual cost reports for these services and the Department shall settle reimbursement to actual costs. Reimbursement to school divisions shall continue to be subject to the provisions of § 32.1- 326.3(A)(1) of the *Code of Virginia* that only the federal share shall be reimbursed for special education health services and that local governments fund the state match for special education health services provided by school divisions. This reimbursement methodology change is being required by the Centers for Medicare and Medicaid Services, the federal funding agency for the Medicaid program.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

Chapter 3, Item 302 NN of the 2006 *Acts of Assembly* directed the Agency to implement these changes and provided regulatory authority. These reimbursement changes were mandated by the Centers for Medicare and Medicaid Services (CMS) as all states are being required to implement cost-based reimbursement for schools effective with the 2006-2007 school year.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

This regulatory action is intended to implement reimbursement changes authorized by the 2006 *Acts of Assembly*, Chapter 3, Item 302 NN. Reimbursement changes were mandated by the Centers for Medicare and Medicaid Services (CMS). CMS is requiring all states to implement cost-based reimbursement effective with the 2006-2007 school year. If DMAS declines to implement this federal mandate, CMS would not provide the federal funding it currently provides to Virginia for 50% of the costs for covered school health services. Without that funding stream Virginia school divisions would be severely hampered in obtaining sufficient resources to maintain school health services, especially for disabled students. This would have a negative impact on the health and welfare of school age children in the Commonwealth, who qualify for school health services.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The section of the State Plan for Medical Assistance that is affected by this change is the Fee-For-Service Providers, Local Health Services, Including Services Paid to Local Schools (12VAC 30-80-30-A:7). This action is creating 12VAC 30-80-75 entitled Local Education Agency (LEA) providers.

The reference to school divisions in 12VAC 30-80-30- subsection A:7 will be deleted. Currently this provision permits local school divisions to be paid under a fee-for-service methodology for the school health services that they render.

Effective November 21, 2006, DMAS promulgated an emergency regulation in order to repeal the fee-for-service reimbursement methodology and establish the cost based reimbursement methodology. Payment for each school year will be based on actual cost as determined by completed and certified cost reports (approved by CMS) and a desk audit. Cost is limited to the amount of medical services and special transportation costs allocated to Medicaid, Medicaid Expansion and FAMIS special education recipients.

DMAS will pay each school division an interim rate for services provided. Final reimbursement will be based on each individual school division's cost as determined through annual cost reports. One cost report will be used for all medical services and a separate cost report will be used for special transportation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Regulatory action poses no disadvantages to the public or Commonwealth. The action will allow DMAS to remain in compliance with CMS promoted methods for reimbursing school divisions for medical services provided to Medicaid and FAMIS eligible students.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	DMAS will incur \$200,000 (\$100,000 NGF; \$100,000 GF) in annual costs to provide reports to school divisions and to audit cost reports.
Projected cost of the regulation on localities	None.
Description of the individuals, businesses or other entities likely to be affected by the regulation	School divisions that participate as Medicaid providers for special education medical services.
Agency’s best estimate of the number of such entities that will be affected	95 school divisions.
Projected cost of the regulation for affected individuals, businesses, or other entities	The regulation is not intended to reduce or increase reimbursement for school divisions. DMAS cannot estimate the impact. School divisions will incur costs in preparing cost reports.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

This regulatory action is based on specific mandates expressed in the 2006 Acts of Assembly, therefore, no alternatives were considered.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
No comments received.		

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents. It does not strengthen or erode the marital commitment.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC30-80-30-A.:7		Reimbursement is based on a statewide fee schedule. Claims payment is final payment. Fee schedule is not directly related to cost of providing services based on those costs.	Delete.
	12VAC30-80-75		Reimbursement is based on each individual school division's cost as determined through annual cost reports. Reimbursable costs are determined by the percentage of total medical services cost and special education transportation cost being provided to Medicaid, Medicaid Expansion, and FAMIS students. Definitions have been added to this section.